



**CITY OF SUNNYVALE
REPORT
Planning Commission**

February 9, 2004

SUBJECT: 2004-0030 - City of Sunnyvale - Amendments to Title 19 (Zoning) of the Sunnyvale Municipal Code pertaining to Nonconforming Residential Buildings, Stormwater Runoff Management and the Pre-Appeal Process.

REPORT IN BRIEF

In order to ensure that Title 19 (Zoning) of the Sunnyvale Municipal Code is current and internally consistent, it is necessary for Council to periodically consider non-substantive updates. This report is intended as such an update providing analysis and recommendations on Nonconforming Residential Buildings, Stormwater Runoff Management and the Pre-Appeal Process. It is anticipated that additional non-substantive updates to Title 19 will be brought before Council later this year.

Proposed changes to the **Nonconforming Residential Buildings** sections of the Code are intended to clarify that legal single-family and duplex dwellings within the R-1, R-0 and R-2 Zoning Districts may be repaired, altered, enlarged or replaced without a Variance even if the existing building does not meet current standards for lot area per dwelling unit. Proposed changes clarify and implement long-standing practice.

Proposed changes to the Code related to **Stormwater Runoff Management** are required to clarify the City's implementation strategy for meeting the standards of the NPDES (National Pollutant Discharge Elimination System).

Proposed changes to the Code related to the **Pre-Appeal Process** are intended to simplify Council appeal options and reduce cost related to land development projects.

For each of three items addressed staff recommends revision to related Sections of Title 19 of the Sunnyvale Municipal Code as noted in Attachment A.

BACKGROUND

Periodically staff has sought Council consideration of “housekeeping” non-substantive updates to Title 19 of the Municipal Code. The last significant updates were reviewed by Council in October of 2000. Since that time, numerous small update items have come to staff’s attention. This report brings three such update items for Council consideration.

The Planning Commission held a Study Session on the three proposed changes to Title 19. The Commission sought clarification on each of the issues. With regards to nonconforming residential buildings, several questions related to how the proposed changes might impact property which included an accessory dwelling unit. The proposed Ordinance changes are specific to both dwelling type, e.g. single-family or duplex, and Zone; therefore, in such situations the main structure could be enlarged, remodeled, etc. The accessory structure itself could not be enlarged beyond the size restrictions established by the Code.

Additional non-substantive updates to Title 19 will be brought before Council later this year.

Environmental Status

A Negative Declaration has been prepared in compliance with the California Environmental Quality Act and City Guidelines. No significant environmental impacts are expected as a result of the project. Copies of the Negative Declaration and Initial Study are provided as Attachment B.

EXISTING POLICY

Title 19 of the Municipal Code serves to protect and promote the public health, safety and general welfare. To accomplish this, the Title establishes the General Plan, and creates Zoning Districts and specific regulations which detail the use and developments of all real property in the City.

The Following Policy of the Legislative Management Sub-Element of the General Plan address issues that relate to the proposed Ordinance changes:

Legislative Management Sub-Element

Policy 7.3B.3 *Prepare and update ordinances to reflect current community issues and concerns in compliance with State and Federal Laws.*

DISCUSSION

The three items considered in this Title 19 update are analyzed in the following discussion.

NONCONFORMING RESIDENTIAL BUILDINGS

Chapter 19.50 “Nonconforming Building and Uses” of the Municipal Code addresses the circumstances under which pre-existing nonconforming structures and uses may be altered, enlarged or rebuilt if destroyed. Section 19.50.020 currently states that residential structures that do not conform to current development standards may be altered, enlarged and so forth, except where lot area per dwelling unit standards are not met. If strictly applied, this section would not allow a simple room addition to a single-family residence if the neighborhood had developed with lot sizes smaller than the current standard.

As a practical reality, staff has historically interpreted this section of the Code in a broad sense as it would otherwise preclude even typical minor modifications to single-family homes simply because the existing lot does not meet current minimum lot size. Such routine modifications to property have not negatively affected the City’s neighborhoods.

The following table identifies the number of lots per Zoning District affected by the proposed change.

ZONE	MINIMUM LOT AREA	TOTAL LOTS CITYWIDE	LOTS EFFECTED	PERCENTAGE OF LOTS
R-0	6,000 sq. ft.	14,894	4,650	31%
R-1	8,000 sq. ft.	4,546	1,260	27%
R-2	8,000 sq. ft.	3,002	2,493	83%

Staff recommends revisions to Section 19.50.020 (noted in Attachment A). These changes clarify that in the R-0, R-1 and R-2 zones single-family and duplex residential units may be modified even in cases where minimum lot sizes are not met. Staff believes that this revision will establish consistency between the specific wording of the Code and long-standing practice. The change would also include about 900 duplex lots in the R-2 Zoning District where, since the 1990’s, regulations would not allow expansion. These properties would still need to meet all other zoning requirements such as setbacks, lot coverage and building height.

STORMWATER RUNOFF MANAGEMENT

The City of Sunnyvale is a member of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), which is an association of thirteen South Bay cities and towns, the Santa Clara Valley Water District and Santa Clara County. All members of SCVURPPP share a common National Pollutant

Discharge Elimination System (NPDES) permit to discharge stormwater into local creeks and South San Francisco Bay.

In October 2001, the permit was amended to include a specific provision, C.3 “New and Redevelopment Performance Standard”. City Staff from the Departments of Public Works, Community Development and the Office of the City Attorney have been working together since that time to develop the best approach for implementing the new C.3 provisions.

In August of 2003, in order to establish adequate legal authority to implement control measures required of the NPDES permit provisions, Council adopted an Ordinance adding Chapter 12.60 “Storm Water Management” to the Sunnyvale Municipal Code.

The proposed revisions to Title 19 Chapters 38, 82 and 84 (See Attachment A) are intended to implement processing requirements for projects to which stormwater management applies, but for which no public hearing is required. The proposed changes would require that a Miscellaneous Plan Permit be processed to address stormwater issues for those projects that would not otherwise require a public hearing.

Staff believes that the proposed revisions will establish a clear process for projects that will ensure that stormwater related issues are adequately addressed.

PRE-APPEAL PROCESS

Section 19.98.080 “Advance Notice of Appeal”, establishes a process allowing Council to appeal a land use permit to the next higher decision making authority. This “Pre-appeal” option is unique to the City of Sunnyvale and allows Council to appeal a land use application before it is considered by the designated decision making authority. The “appealed before it is even discussed” aspect of this process has confused some applicants; however, budget constraints are the fundamental reason why staff believes that this section should be modified.

Although the content and complexity of the “Pre-Appeal Report” has evolved over time, supporting actions required of staff to implement and monitor the process are time-consuming. Obtaining required signatures, and copying and distributing the report accrue costs to the Community Development Department. As part of the cost saving measures adopted by the City Council starting FY 2003-04 (current year) the Land Use Permitting Service Delivery Plan (part of the Development Services Budget) was reduced \$8,675.00 (this amount includes 100 staff hours and \$3,700.00 for printing).

The proposed revisions to Section 19.98.080 (See Attachment A) will recast this Section as an “Automatic Appeal” of selected types of development that pose a

special potential for land use consequences, e.g. industrial development requiring a Use Permit with a FAR (Floor Area Ratio) over 40 percent and Category B bingo game. This approach will ensure that Council will always see projects of particular concern.

Staff believes the existing “Pre-appeal” process to be redundant since individual Council members retain the right to appeal any land use application at their discretion. Staff believes that the proposed revisions will ensure Council participation on selected types of development while allowing flexibility for individual members to appeal an application as they deem appropriate.

FISCAL IMPACT

Elimination of the “Pre-appeal” process has already resulted in a reduction in budget for the Community Development Department of \$8,675.00. If the Council chooses not to adopt the changes to the Pre-Appeal process, appropriate adjustments to the budget to cover this service should be made. No negative fiscal impacts are expected.

PUBLIC CONTACT

Notice of Negative Declaration and Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

The Planning Commission held a Study Session on the three proposed changes to Title 19.

ALTERNATIVES

1. Adopt the Negative Declaration and introduce the Ordinance with the recommended changes to Title 19 of the Sunnyvale Municipal Code.
2. Adopt the Negative Declaration and introduce the Ordinance with modified changes to Title 19 of the Sunnyvale Municipal Code.
3. Do not adopt the Negative Declaration and direct where addition environmental review is required.

RECOMMENDATION

Alternative 1

Prepared by:

Fred Bell
Principal Planner

Reviewed by:

Trudi Ryan
Planning Officer

Reviewed by:

Robert Paternoster
Director, Community Development

Approved by:

Amy Chan
Acting City Manager

Attachments

- A. Draft Ordinance Amending Title 19
- B. Initial Study and Negative Declaration